

GOVERNMENT OF ANDHRA PRADESH
ASBSTARACT

Public Services – Commissioner of Commercial Taxes – Sri Mohd Jawahar Ali Khan, Retd.DCTO-Appeal filed against the final seniority list of ACTOs of Zone VI published in A.P.Extra-ordinar Gazette No.119, dated 25-3-2004 for inclusion of his name in the panel of 1984 of ACTOs of Hyderabad Division Appeal considered – Orders Issued.

REVENUE(CT.I)DEPARTMENT

G.O.Rt.No.1505

Dated:23-7-2008
Read the following

- 1 Representation of Sri Mohd. Jawahar Ali Khan, Retd. DCTO, dt 1-2-2006
- 2.Interim Orders of A.P.A.T. Dt.28.06.2007 in O.A.No.3139/2007 filed by Sri Mohd Jawahar Ali Khan, Retd. DCTO
3. Commissioner of Commercial Taxes no. D2/968/2007 dt 3.7.2007 and 26.4.2008.

Sri Sri Mohd Jawahar Ali Khan, Retd. DCTO has represented to the Government to assign notional seniority in the category of ACTO and consequential promotion as Commercial Tax Officer on par with his junior Mr. Pratap Reddy. The petitioner has contended that the representation of G.Madhusudhan Rao was considered by the Government in G.O.Rt.No.1980, Rev Dated 7-10-2005 and requested to consider his representation for assigning notional seniority as Sri G.Madhusudhan Rao, is junior to him in his entire service.

2. Aggrieved by the orders passed by the Commissioner of Commercial Taxes in not fixing on his seniority on par with his juniors he filed O.A.No.3139/2000 before Hon'ble Hon'ble Andhra Pradesh Administrative Tribunal Hon'ble Tribunal to direct the respondent to consider the representation of the applicant pending disposal of the main O.A.

3. The Commissioner of Commercial Taxes has informed that Sri Mohd. Jawahar Ali Khan was appointed by transfer as ACTO for the panel year 1984-85 of Hyd I Division vide Commissioner of Commercial Taxes's Ref DX2/2007/91 dated 28.4.1993(Review panel of ACTOs). The individual joined as Assistant Commercial Tax Officers on 28.11.1984. Further on his request the Government vide GO Rt.No. 1676 Rev CTI Deot dt, 31.10.94 included his name in the panel of ACTOs for the year 1983-84 above his juniors Sri Pratap Reddy in the feeder category. In view of the orders of the Hon'ble Apex court dt. 25.4.1985 in C.A no. 617 of 1985 and SLP No. 5272-74 of 1985, 3285 of 1985 and 3413 of 1985 and also orders of AP Appellate Tribunal dt. 22.7.2003 in OA No. 6022/2001 batch cases the panel prepared for the year 1983-84 based on the principle of merit and the personnel who were selected in 1983 panel earlier are placed without disturbing their merit order in consonance with the vacancies available for rank promotees quota. Further, those who have been included by the Government in the merit panel of 1983, are relegated and placed at appropriate places as per the date of joining in the final seniority list of ACTOs published in the A.P, Gazette no. 119 dt. 25.3.2004, the Hon'ble Andhra Pradesh Administrative Tribunal, Supreme Court have held that these inclusions should not be given effect to, treating them as back door method of entry. Accordingly, in this process the name of Sri Mohd Jawahar Ali Khan was placed at. Sl.No. 333 in the panel year of 1988-89 of ACTOs of Sec. bad division. Further, the Government vide GO Rt. No. 126, Rev(CT I)Dept dt. 13.8.2004 ratified the above action of the Commissioner of Commercial Taxes.

4. Further informed that the individual's name was not included in the DCTOs seniority list finalised in AP Gazette No. 331 dt. 25.8.2004 for the period from 18.10.75 to 31.8.1997. Where as Sri Pratap Reddy was included in 1994-95 at Sl.No. 1064 and he was promoted as CTO during thre month of August 2004 by virtue of his seniority in feeder category i.e. Assistant Commercial Tax Officer.

5. Government have issued orders in GO Ms.No. 1980 Rev(CTI)Dept dt. 17.10.2005 wherein the name of Sri G.Madhusudhan Rao was placed in the seniority of the Assistant Commercial Tax Officers in Zone VI at appropriate place for the year 1984 without disturbing the panel 1983, keeping in view of the orders of Tribunal in OA No. 6992/95.

6. The Commissioner of Commercial Taxes has been requested to indicate the relative merit of Sri Jawahar Ali Khan vis-a-vis Sri G.Madhusudan Rao.

7. In response to the above, the Commissioner of Commercial Taxes has stated that the relative merit between Sri G.Madhushudhan Rao and Sri Jawahar Ali Khan was the same during the relevant period. While preparing the panel of ACTOs of 1983-84 the post of ACTO was treated as a selection post. In that panel both Sri G.Madhusudhan Rao and Sri Jawahar Ali Khan were not included. Questioning that panel, some of the persons who were not included in the said panel preferred an appeal to the Government. The Government in G.O.Rt.No.1010 Rev(SS) Department dated 21-7-1984 allowed the appeal of the said persons holding that the post of the ACTO was a non selection post and accordingly set aside the panel of 1983-84 prepared by the Commissioner of Commercial Taxes and instructed to prepare the revised panel of ACTOs for the year 1983-84 in terms of G.O.Rt.No.1010 Rev(SS) Department dated 21-7-1984.

8. In terms of G.O.1010 the Commissioner of Commercial Taxes prepared the revised panel for the year 1983-84 in which the name of Sri Jawahar Ali Khan was included. However, the name of Sri G.Madhushudhan Rao was not included. Thereupon Sri G.Madhushudhan Rao filed an appeal to the Government for inclusion of his name in the panel year 1983-84. The Government in G.O.Rt.No.1314 dated 6-9-1997 allowed the appeal and ordered for inclusion of his name in the panel year 1983-84. The inclusion of Sri G.Madhushudhan Rao in the panel year 1983-84 was questioned by Sri Dhanaraj Puneria in the Hon'ble Tribunal by way of O.A.No.6811 of 1997. The Hon'ble Tribunal by its order dated 4-2-1998 dismissed the O.A. The order of the Tribunal was not carried in further appeal. Thus the inclusion of Sri G.Madhusudhan Rao in the panel year 1983-84 became final at that point of time and requested the Government for further orders on the representation of Mohd Jawahar Ali Khan dated 12/2006.

9. After careful examination of the entire issue Government observe that the case of Sri Mohd Jawahar Ali Khan is similar to that of Sri G.Madhusudan Rao as per the above facts of case. Hence it is appropriate to consider the case of Sri Mohd Jawahar Ali Khan for inclusion in the panel of ACTOs of Zone VI for the year 1984 on par with his junior Sri G.Madhusudhan Rao and also consequential benefits in the next categories.

10. Accordingly Government hereby direct that the name of Sri Mohd Jawahar Ali Khan shall be placed at the appropriate place in the panel of ACTOs of Zone VI for the year 1984 on par with junior of Sri G.Madhusudhan Rao and also accord all consequential benefits in the next categories.

11. The Commissioner of Commercial Taxes shall take further action accordingly in the matter.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

G.SUDHIR
PRINCIPAL SECRETARY TO GOVERNMENT

To
The individual through the Commissioner of Commercial Taxes Hyderabad
The Commissioner of Commercial Taxes
The Government Pleader for services . A.P.A.T. Hyderabad.

//FORWARDED:BY ORDER//

SECTION OFFICER

